



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,335	01/05/2001	Anthony James Fardella	A-6877	3674

7590 06/03/2004

Mitchell B. Wasson
Hoffman Wasson & Gitler PC
2361 Jefferson Davis Highway - Suite 522
Arlington, VA 22202

EXAMINER

NGUYEN, HAI V

ART UNIT	PAPER NUMBER
----------	--------------

2142

DATE MAILED: 06/03/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/754,335

Applicant(s)

FARDELLA ET AL.

Examiner

Hai V. Nguyen

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to the application filed on 05 January 2001.
2. Claims 1-33 are presented for examination.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Mayle et al.** U.S patent no. **6,542,936 B1** in view of **Gough et al.** U.S. patent no.

6,360,221 B1.

5. As to claim 1, Mayle, System For Creating Message Including Image Information, discloses a system for composing and sending a video e-mail from a sender to a receiver comprising:

a video source for taking a picture (*Fig. 1, electronic camera, video*);

a first computer (*Fig. 1, PC; Fig. 2, item 10*) connected to said video source for receiving said picture, said computer provided with first software (*Fig. 2, item 52*) for obtaining information relating to the sender and the receiver;

a centralized web server (*Fig. 1, Service Provider; Fig. 2, item 31*) for receiving and storing said information and said picture from said first computer, said web server provided with second software (*Fig. 2, item 64*) for communicating with said first computer and the receiver, said web server further provided with a memory for storing

Art Unit: 2142

said picture in the form of a video email (*Fig. 2; items 62, 63, 65, 66; col. 2, line 35 – col. 3, line 24; col. 4, line 61 – col. 6, line 15*); and however, Mayle does not explicitly disclose a second computer in communication with said web server, said second computer capable of receiving a communication from said web server indicating that a video e-mail directed to the receiver is stored at said memory of said web server. Thus, the artisan would have been motivated to look into the related networking arts for potential methods and apparatus for implementing the capabilities of the receiver's emailing.

In the same field of endeavor, Gough, related Method And Apparatus For The Production, Delivery, And Receipt Of Enhanced Email, discloses in *Fig. 12 that a web site hosted by the server that is capable of at least temporarily storing a message to be sent as e-mail over the wide area network to at least one recipient mail box (Gough, col. 2, lines 6-57; col. 14, lines 56-64; col. 15, lines 53-65).*

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Gough's teachings of the enhanced functionalities of emailing (*Gough, Abstract, Fig. 12; col. 2, lines 6-57; col. 14, lines 56-64; col. 15, lines 53-65*) with the teachings of Mayle, for the purpose of providing the ability to push web-type content, audio and/or visual files, and programs to users in the form self-executing e-mail programs adds a new level of functionality to the Internet (*Gough, col. 2, lines 45-57*). Mayle also discloses that the recipient may view the card as soon as they receive the email message with the URL. The recipient will use a web browser to enter the URL, and view their personalized page (*Mayle, col. 13, lines 1-50*).

Art Unit: 2142

6. As to claim 2, Mayle-Gough discloses, wherein said second computer includes a means for receiving and displaying the video e-mail received from said web server (*Gough, Fig. 12*).

7. As to claim 3, Mayle-Gough discloses, wherein said web server constructs a web page including the video e-mail which is transmitted to said second computer and displayed on a web browser provided at said second computer (*Gough, Fig. 12*).

8. As to claim 4, Mayle-Gough discloses, wherein said picture includes a textual message associated therewith (*Gough, Fig. 12; item M*).

9. Claim 5 is similar limitation of claim 4; therefore, it is rejected under the same rationale as in claim 4.

10. As to claim 6, Mayle-Gough discloses, wherein said picture includes an audio message associated therewith (*Gough, Fig. 12; item F*).

11. Claim 7 is similar limitation of claim 6; therefore, it is rejected under the same rationale as in claim 6.

12. As to claim 8, Mayle-Gough discloses, wherein said first computer has a memory for storing said picture (*Mayle, Fig. 9, Fig. 10, item 1001*).

13. As to claim 9, Mayle-Gough discloses, wherein said first software communicates said information to said second software, and further wherein said second software provides a unique message number to said first software relating to said picture (*Mayle, Abstract, identification information, or unique identification number or card key, col. 5, line 10 – col. 6, line 2*).

Art Unit: 2142

14. As to claim 10, Mayle-Gough discloses, wherein said picture, said information and said unique message number associated with said digital picture are uploaded to said memory of said web server (*Mayle, Fig. 2, item 52; col. 10, line 65 – col. 11, line 25*).

15. As to claim 11, Mayle-Gough discloses, wherein said communication received by the receiver from said web server includes a URL (*Mayle, col. 13, lines 22-28*).

16. Claim 12 is similar limitation of claim 11; therefore, it is rejected under the same rationale as in claim 11.

17. Claim 13 is similar limitation of claim 1; therefore, it is rejected under the same rationale as in claim 1.

18. Claims 14-24 are similar limitations of claims 2-12; therefore, they are rejected under the same rationale as in claims 2-12.

19. Claim 25 is corresponding method claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

20. Claims 26-28 are similar limitations of claims 2-4; therefore, it is rejected under the same rationale as in claims 2-4.

21. Claim 29 is similar limitation of claim 6; therefore, it is rejected under the same rationale as in claim 6.

22. Claim 30 is similar limitation of claim 8; therefore, it is rejected under the same rationale as in claim 8.

23. Claims 31-33 are similar limitation of claim 10; therefore, it is rejected under the same rationale as in claim 10.


Art Unit: 2142

24. Further references of interest are cited on Form PTO-892, which is an attachment to this action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai V. Nguyen whose telephone number is 703-306-0276. The examiner can normally be reached on 6:00-3:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 703-305-9705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JACK B. HARVEY
SUPERVISORY PATENT EXAMINER

Hai V. Nguyen
Examiner
Art Unit 2142

